



DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED-2014-OPE-0035; CFDA Number: 84.015B.]

Proposed Priority -- Foreign Language and Area Studies

Fellowships (FLAS) Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Acting Assistant Secretary for Postsecondary Education proposes a priority for the FLAS Program administered by the International and Foreign Language Education (IFLE) Office. The Acting Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] .

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment

period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to the site?"

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue, SW., room 5142, Potomac Center Plaza (PCP), Washington, DC 20202-2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kate Maloney

Telephone: (202)502-7509 or by e-mail:

Kate.Maloney@ed.gov

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the part of the priority your comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all comments about this notice in Room 6083, 1990 K. St., NW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC, time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing

the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the FLAS Fellowships Program is to provide allocations of academic year and summer fellowships to institutions of higher education or consortia of institutions of higher education to assist meritorious undergraduate students and graduate students undergoing training in modern foreign languages and related area or international studies.

Program Authority: 20 U.S.C. 1122.

Applicable Program Regulations: 34 CFR parts 655 and 657.

Proposed Priorities: This notice contains one proposed priority.

Background:

The Department proposes a priority for FLAS institutional applications that would, when awarding fellowships, give competitive preference to students who

demonstrate financial need determined in accordance with Part F of title IV of the Higher Education Act of 1965, as amended (HEA). This proposed priority would give FLAS institutions an incentive to award fellowships to those meritorious students who would most benefit from financial relief. By providing FLAS fellowships to qualified scholars who lack the financial means to pursue this rigorous training without incurring significant debt, the FLAS Program will contribute to lowering postsecondary education costs for worthy students seeking to become language and area studies experts in the United States.

Applicant institutions addressing the priority would describe a two-tier selection process. From all of the student fellowship applications submitted, the institution would first select a pool of qualified applicants based strictly on merit, as defined in §657.3 of the FLAS Program regulations. From this pool of qualified applicants, the institution could then give competitive preference to students who demonstrate financial need as defined in Part F of title IV of the HEA.

Proposed Priority: Applications that give preference to students who demonstrate financial need as defined in Part F of title IV of the Higher Education Act of 1965, as

amended (HEA), when awarding fellowships. The applicant must describe how it will ensure that all FLAS fellows who receive such preference show potential for high academic achievement based on such indices as grade point average, class ranking, or similar measures that the institution may determine.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational

priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities:

We will announce the final priorities in a notice in the Federal Register. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action

likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order

12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from

statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA (44 U.S.C. 3506(c)(2)(A)).

The information collection for the FLAS Program will be revised to include an evaluation guide that provides applicants with more substantive guidance on how to respond, in a more compelling manner, to the Impact and Evaluation selection criterion found in section 657.21 of the FLAS Program regulations. The guide also includes instructions for completing the new performance measure forms (PMFs) that applicants are required to include in their submitted proposals. For each project element that applicants propose to evaluate during the project period, they must include a performance measure form indicating the project-specific measure for that element.

The IFLE Office developed the PMF so that applicants can include measurable outcomes for their FLAS projects,

based on the goals and objectives they intend to accomplish. The PMF is designed to help applicants to develop a more cohesive evaluation plan focusing the applicant's attention on specific benchmarks and indicators that will better demonstrate their progress toward achieving their goals and objectives. The PMF should assist applicants in proposing high-quality implementation plans at the outset for reporting progress and performance results. Additionally, the information and data collected via the forms will enable the Department to provide Congress and other stakeholders with more concrete evidence to demonstrate the impact of FLAS projects. And finally, the PMF is designed to provide a universal format that applicants can use to present the performance information in their applications. The PMF requests the following: (a) Project goal statement; (b) Performance measure; (c) Project activity; (d) Data/Indices; (e) Frequency of collection; (f) Data source; and, (g) Baseline and targets.

In order to mitigate against increasing respondent burden, applicants will be required to complete only items (a), (b), and (c) on the PMF when they submit their FY14 grant applications. If the application is recommended for funding, we will require the submission of fully completed

forms. The Department estimates that the application, expanded evaluation criterion guidance, and the PMF will require an estimated 500 hours to complete. This represents an additional time burden of 100 hours over the 2010 application.

If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by email to OIRA DOCKET@omb.eop.gov or by fax to (202) 395-6974. You may also send a copy of these comments to the Department contact named in the **ADDRESSES** section of this preamble or submit electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting Docket ID ED-2014-OPE-0035.

Please be advised that the public comment period for submitting comments on the notice of proposed priorities (NPP) is the same for submitting comments on the information collection (IC); therefore, use the NPP Docket number as the identifier for both sets of comments. You may, however, submit the NPP comments and the IC comments separately in the regulations.gov site.

We have prepared an ICR for this collection. In preparing your comments you may want to review the ICR, which is available at www.reginfo.gov. Click on Information Collection Review. This proposed collection is identified as proposed collection 1840-0807 ED-2014-OPE-0035.

We consider your comments on this proposed collection of information in—

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the Information we collect; and
- Minimizing the burden on those who must respond.

This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of

this document in the Federal Register. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of

the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 12, 2014.

Lynn B. Mahaffie,
Acting Deputy Assistant Secretary
for Policy, Planning, and Innovation,
delegated the authority to perform the
functions and duties of the Assistant
Secretary for Postsecondary Education.

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